

# **CITY OF HORSESHOE BAY**

## **BOARD OF ADJUSTMENT**



**JULY 20, 2017**  
**1:00 P.M.**

## CITY OF HORSESHOE BAY

### BOARD OF ADJUSTMENT

Notice is hereby given to all interested members of the public that the Horseshoe Bay Board of Adjustment will hold a Public Meeting beginning at 1:00 p.m., on Thursday, July 20, 2017 in the City Council Chambers at City Hall, #1 Community Drive, Horseshoe Bay, Llano County, Texas. The agenda for the Public Meeting is to discuss and/or act on the following:

1. Call the Meeting to Order and Establish a Quorum
2. Review, Discussion and Take Action Regarding Board Organizational Information
  - a. Proposed By-laws
  - b. Proposed Board Rules of Procedure
  - c. Election of Vice-Chairman
  - d. Adjournment



Eric W. Winter, Development Services Dir.

The Board of Adjustment may go into closed session, if necessary and appropriate, pursuant to the applicable section of the Texas Open Meetings Act, Texas Government Code, Chapter 551, Subchapter D, on any matter that may come before the Board that is listed on the Agenda and for which a closed session is authorized. No final action, decision, or vote will be taken by the Board on any subject or matter while in closed session. Any action, decision or vote will be taken by the Board only in open meeting.





# **CITY OF HORSESHOE BAY BOARD OF ADJUSTMENT**

**JULY 20, 2017**

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**To: Board of Adjustment**  
**From: Eric W. Winter, Development Services Director**  
**RE: Initial Board Meeting Information**

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**This Memo provides information regarding the 1:00 PM BOA meeting July 20 and the attached documents.**

**1. Organizational information:**

**a. Board By-Laws**

**Attached is a copy of the proposed By-Laws for the Board. This document is based on the By-Laws of the City of Georgetown's Zoning Board of Adjustment. Although the Board is an independent body, the City Council may need to approve the final Board By-Laws.**

**b. Rules of Procedure**

**A copy of the proposed Rules of Procedure is also attached. This document is based on the Rules for the Board in Bellaire Texas.**

**c. Election of Vice Chairman**

**The Board is authorized to elect a Vice-Chairman who shall serve in place of the Chairman when he is absent.**

**Let me know if you have any questions.**

**CITY OF HORSESHOE BAY  
BOARD OF ADJUSTMENT  
PROPOSED BYLAWS**

**ARTICLE I. NAME AND PURPOSE**

**Section 1.1. Name.** Board of Adjustment ("Board").

**Section 1.2. Purpose.** The Board is established to exercise the powers and duties of a board of adjustment as permitted by law, including Local Government Code Chapter 211 and Article 14.02 Zoning Ordinance of the City Code of Ordinances, as each may be amended. *See Ordinance Sec.14.02,191*

**ARTICLE II. MEMBERSHIP**

**Section 2.1. Number of Members.** The Board will be comprised of five (5) Members.

**Section 2.2. Eligibility.** Members of the Board may not also be Members of the City Council or Planning and Zoning Commission.

**Section 2.3. Appointment of Board Members.** Members of the Board shall be appointed by the City Council each year in December.

**Section 2.4. Terms of Office.** Generally, terms of office for each Member shall be two (2) years. Generally, a Member may serve four (4) consecutive terms. Refer to *Ordinance Section 14.02.194(c)* for additional provisions regarding terms of office.

**Section 2.5. Vacancies.** Vacancies that occur during a term shall be filled as soon as reasonably possible by Council appointment by a simple majority vote. If possible, the Member shall continue to serve until the vacancy is filled. An appointment to fill a vacated term is not included as a term for purposes of counting consecutive terms.

**Section 2.6. Compensation and Expenditure of Funds.** Members serve without compensation. The Board and its Members have no authority to expend funds or to incur or make an obligation on behalf of the City unless authorized and approved by the City Council. Members may be reimbursed for expenses authorized and approved by the City Council and the Board.

**Section 2.7. Compliance with City Policy.** Members will comply with City Ordinances,

Rules and Policies applicable to the Board and the Members, including but not limited to the *City's Code of Ethics*

**Section 2.8. Removal.** A Member may be removed from the Board for cause, on written charge. Before the decision regarding removal is made, the City Council shall hold a public hearing on the matter unless waived by the Member that is subject to the removal action. Removal shall be by majority vote of the City Council.

### **ARTICLE III. BOARD OFFICERS**

**Section 3.1. Officers.** The Board Officers are Chairman, Vice-Chairman and, if required, a Secretary. The Chairman is approved by the City Council during the annual appointment process. The other Board Officers are elected by a majority vote of the Members at the first meeting after the annual appointment process.

**Section 3.2. Terms of Office for Board Officers.** Board Officers serve for a term of one year. In the event of vacancy in the office of Chairman, the Vice-Chairman shall serve as Chairman until the City Council appoints a replacement Chairman. A vacancy in the other offices shall be elected by majority vote of the Members at the next regularly scheduled meeting, or as soon as reasonably practical for the unexpired term. If possible, a Board Officer shall continue to serve until the vacancy is filled.

#### **Section 3.3. Duties.**

- a. The Chairman presides at Board meetings. The Chairman shall generally manage the business of the Board. The Chairman shall perform the duties delegated to the Chairman by the Board.
- b. The Vice-Chairman shall perform the duties delegated to the Vice-Chairman by the Board. The Vice-Chairman presides at Board meetings in the Chairman's absence. The Vice-Chairman shall perform the duties of the Chairman in the Chairman's absence or disability.
- c. The Secretary shall perform the duties delegated to the Secretary by the Board.

### **ARTICLE IV. MEETINGS**

**Section 4.1. Time and Date of Regular Meeting.** Meetings and hearings of the Board shall be held at the call of the Chairman and at such times as the Board may determine. All meetings and hearings shall be public. Each case before the Board must be heard and



approved by at least 75 percent of the Members.

**Section 4.2. Agenda.** Items may be placed on the agenda by the Chairman, the Development Services Director, or at the request of a Member. The party (or individual) requesting the agenda item will be responsible for submitting a Variance Application and the required public notices and for the initial presentation at the meeting. Items included on the agenda must be submitted to the Development Services Department no later than two weeks before the Board meeting at which the agenda item will be considered. Agenda packets for regular meetings will be provided to the Members in advance of the scheduled Board meeting. Agenda packets will contain the posted agenda, staff reports, Variance Approval Forms and written minutes of the last meeting.

**Section 4.3. Special Meetings.** Special meetings may be called by the Chairman or on written request of two (2) Members.

**Section 4.4. Quorum.** A quorum shall consist of a majority of the Members. A quorum is required for the Board to convene a meeting and to conduct business at a meeting. Attendance and approval of at least 75 percent of the Members is required to hear and determine a case.

**Section 4.5. Call to Order.** Board meetings will be called to order by the Chairman or, if absent, by the Vice-Chairman. In the absence of both the Chairman and Vice-Chairman, the meeting shall be called to order by the Secretary, and a temporary Chairman shall be elected to preside over the meeting.

**Section 4.6. Conduct of Meeting.** Board meetings will be conducted in accordance with these Bylaws and Roberts Rules of Order Newly Revised, as applicable to the Board.

**Section 4.7. Voting.** Each Member shall vote on all agenda items, except on matters involving a conflict of interest, substantial financial interest or substantial economic interest under state law or other applicable Laws, Rules and Policies. In such instances, the Member shall make the required disclosures and shall refrain from participating in both the discussion and vote on the matter. The Member may remain at the dais or leave the dais, at the Member's option, while the matter is being considered and voted on by the other Board Members. Unless otherwise provided by law, each case before the Board must be heard and determined by at least 75 percent of the Members. Any request not approved by affirmative vote of at least four Members shall be considered denied.

**Section 4.8. Minutes.** A recording or written minutes shall be made of all open sessions of Board meetings. The minutes shall show the vote of each Member upon each question or, if absent or failing to vote, indicating such fact, and examinations and other official actions. The Development Services Director is the custodian of all Board records and documents.

**Section 4.9. Attendance.** Members are required to attend Board meetings prepared to discuss the issues on the agenda. A Member shall notify the Chairman and the Development Services Director if the Member is unable to attend a meeting. Excessive absenteeism will be subject to action under Council policy and may result in the Member being replaced on the Board. See *Ordinance Section 14.02.194(e)*. Excessive absenteeism means failure to attend three consecutive regular meetings or four total meetings in the preceding twelve-month period. If a Member is removed from the Board that position shall be considered vacant and a new Member shall be appointed to the Board in accordance with Section 2.5 above.

**Section 4.10. Public Participation.** In accordance with City policy, the public is welcome and invited to attend Board meetings and to speak on any item on the agenda. A person wishing to address the Board must sign up to speak in accordance with the policy of the City concerning participation and general public comment at public meetings. Sign-up sheets will be available and should be submitted to the Chairman prior to the start of the meeting. If any written materials are to be provided to the Board, a copy shall also be provided to the Development Services Director for inclusion in the minutes of the meeting. Speakers shall be allowed a maximum of three minutes to speak. If a person wishes to speak on an issue that is not posted on the agenda, they must file a written request with the Development Services Director no later than one week before the scheduled meeting. The written request must state the specific topic to be addressed and include sufficient information to inform the Board and the public. A person who disrupts the meeting may be asked to leave and be removed.

**Section 4.11. Open Meetings.** Public notice of Board meetings shall be provided in accordance with the provisions of the Texas Open Meetings Act. All Board meetings and deliberations shall be open to the public, except for properly noticed closed session matters, and shall be conducted in accordance with the provisions of the Texas Open Meetings Act.

**Section 4.12. Closed Sessions.** The Board may conduct closed sessions as allowed by law, on properly noticed closed session matters, such as consultation with attorney on

legal matters, deliberation regarding the value of *real* property, competitive utility matters, and economic development negotiations. A recording or certified agenda shall be made of all closed sessions of Board meetings.

#### **ARTICLE V. BYLAWS AMENDMENTS**

These Bylaws may be amended by majority vote of the Board Members at any regular meeting of the Board. The Board's proposed amendments to the Bylaws must be approved by City Council at the next Council meeting after the Board's approval. Bylaw amendments are not effective until approved by City Council.

Adopted and approved on this 20<sup>th</sup> day of July, 2017 by a vote of the Board of Adjustment of the City of Horseshoe Bay, Texas.

**CITY OF HORSESHOE BAY, TEXAS**

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**David Pope, Chairman**

**Attest:**

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**Eric W. Winter**  
**Development Services Director**



**CITY OF HORSESHOE BAY  
BOARD OF ADJUSTMENT  
PROPOSED RULES OF PROCEDURE  
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## **ARTICLE I**

### **Officers**

**Section A. Officers Named:** The officers shall be Chairman and Vice-Chairman. The Chairman shall be appointed by the City Council in accordance with their appointment procedures and the Vice-Chairman shall be elected by the Board at the first meeting of the year.

**Section B. Chairman's Duties:** The Chairman is the Presiding Officer and Spokesperson for the Board. The Chairman may delegate Board business from time to time.

**Section C. Vice-Chairman's Duties:** The Vice- Chairman shall serve as Chairman in the absence of the Chairman.

## **ARTICLE II**

### **Meetings**

**Section A. Initial Meeting of the Board:** The first meeting establishing the Board shall be an organizational meeting at which the By-Laws and Temporary Rules of Procedure are reviewed and acted on. The Vice-Chairman shall also be elected at this meeting. There shall be no items for any Variance, appeal, or exception on the agenda for this meeting.

**Section B. First Meeting of a New Board:** If all Board members are replaced at the end of their two-year term, the first meeting of the new Board shall be a joint meeting of the outgoing (old) Board and the incoming (new) Board. The outgoing Chairman shall call the meeting to order and shall preside until the outgoing Board meeting concludes. There shall be no items for any variance, appeal, or exception on the agenda for this meeting. The outgoing Board shall approve the minutes of all previous meetings. The incoming Board shall adopt temporary or permanent Rules of Procedure and such rules shall take effect immediately and remain in effect until amended as outlined in **Article VI - Amendments to Rules of Procedure**. Said Rules may be adopted "As Is" or adopted "As Amended" by a majority vote (four (4) or more votes) of the Board. All other amendments shall be adopted pursuant to **Article VI- Amendments to Rules of Procedure**. If the Board membership does not change, or less than four (4) members change, the first meeting of the reappointed Board shall be a continuation of the previous Board's last meeting.

**Section C. Regular Meetings:** Regular meetings of the Board of Adjustment shall be held at 3:00 P.M. on the third Thursday of each month, unless there are no applications to consider, in the Council Chambers of City Hall, 1 Community Drive, Horseshoe Bay Texas.

**Section D. Special Meetings:** Special meetings may be called by the Chairman or any two members of the Board, of which notice shall be given in conformity with the Texas Open Meetings Act and procedures of the City of Horseshoe Bay, Texas.



**Section E. Open Meetings Act:** All meetings shall comply with the Texas Open Meetings Act pursuant to Chapter 551, Texas Government Code.

**Section F. Adding Agenda Items:** Agenda items for discussion only may be added by the Development Services Director, the Chairman or any two members of the Board not later than 12:00 noon on the seventh (7<sup>th</sup>) calendar day prior to a meeting.

**Section G. Sign-Up Form for Speakers:** There shall be Sign-Up Forms for the purpose of permitting members of the public to address agenda items. Such forms shall be available to the public and forwarded to the Chairman so that such person's names may be called to address the Board at the appropriate time. All testimony shall be given under oath.

**Section H. The Agenda:** Except as provided in Section B of this Article, the Agenda at all regular and special meetings of the Board shall be as follows:

1. Call to Order
2. Pledge to the Flag (US and Texas)
3. Certification of a Quorum
4. Public Comments (those speaking are asked to limit their comments to three minutes)
5. Approval of the Minutes of the Previous Meeting
6. New Business - Public Hearings on Agenda Item for a Variance, Appeal or Exception  
*(Repeated and sequentially numbered for each Agenda Item considered at each meeting)*
  - a) Presentation by Applicant, Appellant, Property Owner, Counsel or other Agent
  - b) Presentation by the City Staff
  - c) Public comments on Agenda Item (Limitations: Names of those desiring to comment shall come from sign-up list and shall be limited to six (6) minutes per speaker)
  - d) Rebuttal by Applicant, Appellant, Property Owner, Counsel or other Agent.
  - e) Questions by Board
  - f) Consideration of, deliberation by, and action on Agenda Item by the Board (Requires 75% or four (4) affirmative votes for approval pursuant to Section 211.009(c), Texas Local Government Code)
7. Adjournment

**Section K. Revising the Order of the Agenda During a Meeting:** The order of the Agenda may be amended following Item three (3), at the recommendation of the Chairman and by a simple majority vote of the Board.

### **ARTICLE III Agenda Items**

**Section A. Numbering Agenda Items:** Each appeal or application for a Variance filed in proper form with the required data and fees, shall be numbered serially, made an agenda item, and shall be placed upon the calendar of the Board by the Development Services Director. The agenda numbers shall begin anew on January 1 of each year, and shall be hyphenated with the number of the year in which the said appeal or application is filed.

**Section B. Timing of Agenda Items:** All cases submitted more than thirty (30) days in advance of a regular meeting day, and which the City's public notice requirements have been complied

with, shall be automatically set for hearing on the next regular meeting day. Cases submitted within fifteen (15) or fewer days of the regular meeting day shall be set for hearing on the next month's regular meeting day.

**Section C. Method of Appeal:** Each appeal to the Board from an order, decision or determination of Development Services Director or application for a Variance of any of the provisions of the Zoning Regulations and all other applicable communication concerning Board business shall be submitted on forms provided by the City.

**Section D. Notification:** The Order notifying the appellant or applicant shall also notify same of their appeal right to State District Court pursuant to Section 211.011, Texas Local Government Code, within ten (10) days of the date of the order is filed in the Development Services Department office.

**Section E. Precedents:** No action of the Board of Adjustment shall set a precedent. Each case shall be decided upon its merits and upon the circumstances attendant thereto.

**Section G. Advice and Moot Questions:** No formal requests for advice, or moot questions will be considered by the Board. Any advice, opinion or information given by any Board member or any other official or employee of the City of Horseshoe Bay shall not be binding on the Board.

**Section H. Fees:** All Applicants and Appellants shall pay a non-refundable application fee set by the City of Horseshoe Bay to the Secretary of the Board.

**Section I. Application for Re-Hearings:** No application or appeal to the Board shall be permitted on substantially the same subject matter on the same property prior to the expiration of twelve (12) months from an order of the Board. No application or appeal shall be allowed on substantially the same subject matter on the same piece of property during litigation against the City of Horseshoe Bay and/or the Board of Adjustment on said property.

**Section J. Withdrawal of Application:** Any appellant or applicant may request that his or her appeal or application be withdrawn at any time prior to a final vote or disposition by the Board. Such request shall be granted by the Board.

**Section K. Disposition:** In the final disposition of any appeal or application for a Variance, the decision shall affirm, modify or reverse the refusal of a permit by, or any order or decision of the Development Services Director. In case of an application for a Variance the decision shall set forth that the application is denied or that it is granted with or without conditions. The vote of each member present on each decision shall be by record vote.

**Section L. The Lack of a Quorum for a Variance Hearing:** In the event that the Appellant, Applicant, Property Owner, Counsel, or other Agent is present at the scheduled hearing, but the Board of Adjustment is lacking a quorum for the hearing, the hearing shall be rescheduled without any penalties for the appellant or applicant and no additional application fee shall be imposed.



**Section M. Special Exception or Variance Parking Requirement:** Any applicant seeking a Variance or Special Exception from Chapter 14 Zoning Ordinance of the City of Horseshoe Bay Code of Ordinances must include, with their application, a complete "Parking Plan" that is to be presented to the Board, must be given to the City of Horseshoe Bay ten (10) days in advance of the scheduled board meeting. In the event that the Board of Adjustment or the applicant wishes to revise the proposal at or before the hearing, the City of Horseshoe Bay may request and receive the right to delay the process until the next Board meeting to review the changes. The Development Services Director may request a waiver of this requirement.

## **ARTICLE IV**

### **Definitions**

**Appeal:** A process to permit a request for relief through application by a person aggrieved by a decision of the Development Services Director pursuant to Horseshoe Bay's Zoning Regulations.

**Appellant:** A person aggrieved by a decision made by the Development Services Director affected by the decision, who appeals in person or through his designated representative for relief to the Board of Adjustment.

**Applicant:** A person who requests in person or through his designated representative, either a special exception to the terms of Horseshoe Bay's Zoning Regulations or a request for a Variance from the terms of Horseshoe Bay's Zoning Regulations.

**Application:** An appeal or a request for a Variance or a special exception in writing specifying the grounds for an appeal contained in a standardized form issued by the Development Services Director.

**Board of Adjustment:** A public and quasi-judicial body charged with the duty to hear and determine Zoning appeals, Variances and special exceptions and pursuant to Section 211.009 of the Texas Local Government Code and Part V, Division 2 of Article 14 Zoning Ordinance of Chapter 14 Zoning of the Horseshoe Bay Code of Ordinances.

**Development Services Director:** The person duly appointed by the City Manager of the City of Horseshoe Bay, as provided by Chapter 14 of the Horseshoe Bay Code of Ordinances, charged with the duty and obligation of issuing permits and certificates of occupancy and with the responsibility for enforcing the provisions of the Building Code and Zoning Regulations for the City of Horseshoe Bay.

**Error:** Refer to Section 211.009(a)(1), Texas Local Government Code.

**Parking Plan:** A site plan that identifies all parking space locations for a proposed project whether onsite or offsite and shows any Variance to be requested.

**Special Exception:** Refer to Section 211.009(a) (2), Texas Local Government Code.

**Variance:** Refer to Section 211 .009(a) (3), Texas Local Government Code.

**Zoning:** A power over land use granted to a city pursuant to Chapter 211, Texas Local Government Code, for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance.

## **ARTICLE V**

### **Civil and Parliamentary Authority**

**Section A. Construction of Authority:** The construction of authority in all matters associated with the Board of Adjustment, including the Agenda, shall be: 1) the Constitution and statutes of the United States of America; 2) the Constitution and statutes of the State of Texas; 3) the Charter of the City of Horseshoe Bay; 4) the Code of Ordinances of the City of Horseshoe Bay; 5) these Rules of Procedure; and 6) Robert's Rules of Order, Newly Revised.

**Section B. Reference to State and Local Statutes:** The conduct and scope of activity of the Board of Adjustment is governed by and subject to State and local laws including, but not limited to, Chapters 211, 213 and 216, Texas Local Government Code, Chapters 551 and 552, Texas Government Code, the Charter of the City of Horseshoe Bay, Texas, and Chapter 14, Zoning of the City of Horseshoe Bay Code of Ordinances.

**Section C. Parliamentary Authority:** The Rules contained in the most recent edition of Robert's Rules of Order, Newly Revised shall govern the Board of Adjustment in all cases in which they are applicable and not inconsistent with a superior authority.

## **ARTICLE VI**

### **Amendments to Rules of Procedure**

**Section A. Amendments by Existing Board:** These Rules of Procedure may be amended by a majority vote of the entire Board of Adjustment provided previous notice is given at one meeting in advance of any such consideration, and further provided, that an amendment to bring these Rules of Procedure in compliance with a superior statute, rule, procedure or other authority may be considered without previous notice.

**Section B. Annual Review:** These Rules of Procedure shall be reviewed not less frequently than annually. The adoption of these Rules of Procedure by a New Board shall not constitute such review.

## **ADOPTION OF RULES OF PROCEDURE**

Adopted by the Board of Adjustment of the City of Horseshoe Bay on the 20<sup>th</sup> day of July, 2017.



CITY OF HORSESHOE BAY, TEXAS

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David Pope, Chairman

ATTEST:

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Eric W. Winter, Development Services Manager